



06 DEC 2006

Joseph R. Evanns
EVANNS & WALSH
119 N. San Vincente Blvd
Suite 206
Beverly Hills, CA 90211

In re Application of: :
FRIEDHEIM, Max :
U.S. Application No.: 10/528,084 : DECISION ON PETITION
PCT No.: PCT/US05/08705 :
International Filing Date: 15 March 2005 :
Priority Date: 15 March 2004 :
Attorney's Docket No.: 1776-013 :
For: IMPROVED HIGHLY SUPERHEATED :
VAPOR GENERATOR SYSTEM AND :
METHOD :

This decision is issued in response to the "Petition To The Director For Vacating And Withdrawing Erroneous Purported Notification Of Abandonment; Exhibits; Declaration Of Applicant's Attorney In Support Of Petition [37 CFR 1.181]" filed 24 November 2006. No petition fee is required.

BACKGROUND

The procedural background for the present application was set forth in the decision mailed herein on 15 July 2005. That decision granted applicant's petition for withdrawal of an earlier holding of abandonment. The decision noted that payment of the basic national fee herein was not required until 15 September 2006.

On 27 September 2006, the United States Designated/Elected Office (DO/EO/US) mailed a second "Notification of Abandonment" (Form PCT/DO/EO/909) in the present national stage application, indicating that the application was abandoned for failure to pay the basic national fee within thirty months of the priority date.

On 24 November 2006, applicant filed the petition considered herein. The petition seeks withdrawal of the holding of abandonment, stating that the required basic national fee was timely filed on 12 September 2006.

DISCUSSION

The deadline for payment of the basic national fee in the present national stage application was 15 September 2006, i.e., thirty months after the 15 March 2004 priority date claimed in international application PCT/US2005/008705.

In the present petition, applicant asserts that a transmittal letter, accompanied by a preliminary amendment and a check in payment of the basic national fee, were filed herein on 12 September 2006. Attached to the petition is a copy of these materials, as well as a copy of a return postcard that itemizes these materials and bears a USPTO receipt stamp dated 12 September 2006. A review of the application file confirms receipt of these materials on 12 September 2006.

Based on applicant's statements in the present petition, the itemized postcard bearing the 12 September 2006 receipt stamp, and a review of the application file, it is concluded that applicant's payment of the basic national fee was filed in the USPTO on 12 September 2006, prior to the expiration of thirty months from the priority date.

The Notification Of Abandonment mailed 27 September 2006, based as it was on applicant's purported failure to file the basic national fee before the expiration of the thirty month deadline, is appropriately withdrawn.

CONCLUSION

The petition to withdraw the holding of abandonment is **GRANTED**.

The Notification Of Abandonment (Form PCT/DO/EO/909) mailed 27 September 2006 is hereby **VACATED**.

This application is being referred to the National Stage Processing Branch of the International Division for further processing in accordance with this decision. The date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) is 12 September 2006.



Richard M. Ross
Attorney Advisor
Office of PCT Legal Administration
Telephone: (571) 272-3296
Facsimile: (571) 273-0459